

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH  
BENEFITS FUND; PIRELLI ARMSTRONG  
RETIREE MEDICAL BENEFITS TRUST;  
TEAMSTERS HEALTH & WELFARE FUND  
OF PHILADELPHIA AND VICINITY;  
PHILADELPHIA FEDERATION OF  
TEACHERS HEALTH AND WELFARE  
FUND; DISTRICT COUNCIL 37; AFSCME -  
HEALTH & SECURITY PLAN; JUNE  
SWAN; MAUREEN COWIE and BERNARD  
GORTER,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri  
corporation; and McKESSON  
CORPORATION, a Delaware corporation,

Defendants.

C.A. No. 1:05-CV-11148-PBS

**MOTION FOR LEAVE TO FILE UNDER SEAL**

Plaintiffs, by their attorneys, respectfully move this Court for leave to file under seal the following pleadings and other materials: (1) Class Plaintiffs' Reply to McKesson's Opposition to Aggregate Damages For the TPP Class and McKesson's Motion to Decertify the Consumer Class; (2) Ex. 5 to the Declaration of Steve W. Berman in Support of Class Plaintiffs' Reply to McKesson's Opposition to Aggregate Damages For the TPP Class and McKesson's Motion to Decertify the Consumer Class and Class Plaintiffs' Proffer of Evidence Common to the Class Containing Admissions by McKesson as to the Scheme's Impact on the Class; and (3) Tutorial Presentation and Demonstratives of Dr. Raymond S. Hartman, including DVD.

Express Scripts has agreed to produce Exhibit 5 (attached to the Declaration of Steve W. Berman) in this litigation under the July 27, 2006 Order. However, this document was originally produced under the terms of the Protective Order entered in *In re Express Scripts, Inc., PBM Litig.*, Master Case No. 4:05-md-01672-SNL (E.D. Mo.). Plaintiffs are filing the document under seal to comply with the Protective Order entered in that case. And because Exhibit 5 is referenced in the Tutorial Presentation of Dr. Hartman, Plaintiffs are also filing the Tutorial under seal to comply with both Orders.

In addition, the foregoing items include or reference copies of documents and/or excerpts from documents that certain third-parties have identified as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” pursuant to the terms of the April 11, 2005 Protective Order. Also, the foregoing items reference information contained in documents designated by certain third-parties as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” In addition, the foregoing items not only quote extensively from and/or attach documents that certain third-parties have designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” but also they include references to pricing data that third-parties likely believe to be highly proprietary in nature.

Paragraph 14 of the Protective Order mandates that any document or pleading containing material such as that referenced above be filed under seal. Plaintiffs hereby seek to comply with the terms of the Protective Order. Plaintiffs do not agree that these materials should be deemed highly confidential but must comply with the Protective Order.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the foregoing listed materials under seal.

DATED: October 29, 2007

By /s/ Steve W. Berman

Steve W. Berman  
Nicholas Styant-Browne  
Barbara A. Mahoney  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
Telephone: (206) 623-7292  
Facsimile: (206) 623-0594

Thomas M. Sobol (BBO#471770)  
Hagens Berman Sobol Shapiro LLP  
One Main Street, 4th Floor  
Cambridge, MA 02142  
Telephone: (617) 482-3700  
Facsimile: (617) 482-3003

Elizabeth Fegan  
Hagens Berman Sobol Shapiro LLP  
820 North Boulevard, Suite B  
Oak Park, IL 60302  
Telephone: (708) 776-5600  
Facsimile: (708) 776-5601

Jeffrey Kodroff  
John Macoretta  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Telephone: (215) 496-0300  
Facsimile: (215) 496-6611

Marc H. Edelson  
Allan Hoffman  
Hoffman & Edelson  
45 West Court Street  
Doylestown, PA 18901  
Telephone: (215) 230-8043  
Facsimile: (215) 230-8735

Kenneth A. Wexler  
Jennifer Fountain Connolly  
The Wexler Firm LLP  
55 West Monroe Street, Suite 3300  
Chicago, IL 60602  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022

George E. Barrett  
Edmund L. Carey, Jr.  
Barret, Johnston & Parsley  
217 Second Avenue, North  
Nashville, TN 37201  
Telephone: (615) 244-2202  
Facsimile: (615) 252-3798

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on October 29, 2007.

/s/ Steve W. Berman  
Steve W. Berman

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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**[PROPOSED] ORDER GRANTING PLAINTIFFS’  
MOTION FOR LEAVE TO FILE UNDER SEAL**

THIS MATTER is before the Court on Plaintiffs’ motion for leave to file under seal. The Court, having considered all pleadings in support and in opposition thereto, and being fully advised in the premises, hereby

GRANTS Plaintiffs’ motion for leave to file under seal the following items:

1. Class Plaintiffs’ Reply to McKesson’s Opposition to Aggregate Damages For the TPP Class and McKesson’s Motion to Decertify the Consumer Class;
2. Exhibit 5 of the Declaration of Steve W. Berman in Support of Class Plaintiffs’ Reply to McKesson’s Opposition to Aggregate Damages For the TPP Class and McKesson’s Motion to Decertify the Consumer Class and Class Plaintiffs’ Proffer of Evidence Common to the Class Containing Admissions by McKesson as to the Scheme’s Impact on the Class; and
3. Tutorial Presentation and Demonstratives of Dr. Raymond S. Hartman, including DVD.

IT IS SO ORDERED without prejudice to Plaintiffs right to move to unseal these.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Patti B. Saris  
United States District Court Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on October 29, 2007.

/s/ Steve W. Berman  
Steve W. Berman